

BEFORE THE
POLLUTION CONTROL HEARINGS BOARD
STATE OF WASHINGTON

IN THE MATTER OF)
EVERGREEN MEMORIAL GARDENS,)
Appellant,)
v.)
SOUTHWEST AIR POLLUTION)
CONTROL AUTHORITY,)
Respondent.)

PCHB No. 573

FINAL FINDINGS OF FACT,
CONCLUSIONS OF LAW
AND ORDER

THIS MATTER being a \$100.00 open fire violation; having come on regularly for hearing before the Pollution Control Hearings Board on the 15th day of August, 1974, at Vancouver, Washington; and appellant, Evergreen Memorial Gardens, appearing pro se and respondent, Southwest Air Pollution Control Authority, appearing through its attorney, James D. Ladley; and Gayer Dominick (hearing examiner) being present at the hearing and the Board having considered the transcript, exhibits, records and files herein and having entered on the 18th day of November, 1974, its proposed Findings of Fact, Conclusions of Law and Order, and the


1 Board having served said proposed Findings, Conclusions and Order upon
2 all parties herein by certified mail, return receipt requested and
3 twenty days having elapsed from said service; and

4 The Board having received no exceptions to said proposed Findings,
5 Conclusions and Order; and the Board being fully advised in the premises;
6 now therefore,

7 IT IS HEREBY ORDERED, ADJUDGED AND DECREED that said proposed
8 Findings of Fact, Conclusions of Law and Order, dated the 18th day of
9 November, 1974, and incorporated by this reference herein and attached
10 hereto as Exhibit A, are adopted and hereby entered as the Board's
11 Final Findings of Fact, Conclusions of Law and Order herein.

12 DONE at Lacey, Washington, this 16th day of December, 1974.

POLLUTION CONTROL HEARINGS BOARD

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15 
16 W. A. GISSBERG, Member

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19 CHRIS SMITH, Member

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27 FINAL FINDINGS OF FACT,
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A hearing on this appeal came before the Pollution Control Hearings Board (Gayer Dominick, presiding officer) on August 15, 1974 in Vancouver, Washington.

Appellant appeared pro se; respondent through its attorney, James D. Ladley.

From testimony presented, exhibits examined and transcript reviewed, the Pollution Control Hearings Board makes these

EXHIBIT A

1 FINDINGS OF FACT

2 I.

3 On April 12, 1974 appellant's employees engaged in open burning on
4 property belonging to the appellant. The open burning consisted of
5 three different fires. Such fires were approximately four to five feet
6 high and four to five feet in diameter. Materials in the fire consisted,
7 among other things, of plywood, and paper, plastic flowers, an aerosol
8 paint spray can, and an old plastic tarp approximately 10'x12'.

9 II.

10 The property upon which the burning was occurring is known as the
11 Evergreen Memorial Gardens, a privately-owned cemetery run for commercial
12 purposes.

III.

14 On April 12, 1974, respondent issued to appellant a Notice of
15 Violation Number CS 1142, and then on April 15, 1974, respondent mailed
16 to appellant another Notice of Violation advising appellant of a civil
17 penalty of \$100.00. From this Notice of Violation appellant has filed
18 its timely Notice of Appeal with this Board.

19 IV.

20 Appellant possessed no permit allowing it to burn in the manner cited.

21 V.

22 Section 4.01 of respondent's Regulation I makes it unlawful to
23 cause or allow any outdoor fire containing, among other things, plastics
24 which when burned emit dense smoke. Appellant's employees were
25 responsible for the plastic material being in the fires.

27 FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER

1 VI.

2 Any Conclusion of Law which may be deemed to be a Finding of Fact
3 herewith is adopted as same.

4 From the preceding Findings of Fact come the following

5 CONCLUSIONS OF LAW

6 I.

7 Appellant's open fires on April 12, 1974 were in violation of
8 Section 4.01 of Article IV of respondent's Regulation I, adopted pursuant
9 to RCW 70.94 as amended, and known as the Washington Clean Air Act.

10 II.

11 The penalty assessment of \$100.00, pursuant to Section 2.10 of
12 Article II of Regulation I of the Southwest Air Pollution Control
Authority is reasonable and is in accord with the law.

14 III.

15 Any Finding of Fact which may be deemed a Conclusion of Law is
16 herewith adopted as same.

17 Therefore, the Pollution Control Hearings Board issues this

18 ORDER

19 Accordingly, it is the Board's Order that the appeal is denied and
20 that the respondent's Notice of Penalty is affirmed.

21 DONE at Lacey, Washington this 18th day of November, 1974.

22 POLLUTION CONTROL HEARINGS BOARD

23 W. A. Gissberg
24 W. A. GISSBERG, Member

25 Chris Smith
CHRIS SMITH, Member

27 FINDINGS OF FACT,
CONCLUSIONS OF LAW AND ORDER